

REMARKS

Claims 1-23 are pending in the application. In an Office Action mailed April 30, 2002, certain objections were raised with regard to the specification. Further, all claims were rejected under 35 U.S.C. § 103(a). In view of the amendment above and the comments that follow, applicants respectfully submit that all claims are in condition for allowance.

Objections to the Specification

The specification was objected to because of certain informalities. Applicants have amend the disclosure above to overcome the objections raised in the Office Action.

Objections Under 35 U.S.C. § 103(a)

Claims 1, 11, and 15, as well as certain dependent claims stemming therefrom, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,732,960, issued to Nilson, in view of U.S. Patent No. 5,556,250, issued to Fretwell et al., U.S. Patent No. 3,700,123, issued to Corley Jr., and Japanese Patent No. 457685, issued to Torii. The Office Action set forth the position that Nilson discloses a substantially similar lift having parallel arms 24 and 29 and a support member 32. Fretwell et al. has been cited for the purpose of establishing use of a similar lift for a wheelchair. The Office Action admits that Nilson lacks a U-shaped bracket support. Corley Jr. has been cited as disclosing U-shaped brackets 35 and 36 at the ends of parallel arms. The Office Action sets forth the position that it would have been obvious to substitute a U-shaped bracket as taught by Corley Jr. "if so desired." Applicants respectfully disagree.

Applicants respectfully note that the Office Action has failed to establish a *prima facie* case of obviousness. As the PTO recognizes in MPEP § 2142:

The legal concept of *prima facie* obviousness is a procedural tool of examination which applies broadly to all arts. It allocates who has the burden of going forward with the production of evidence in each step of the examination process . . . The examiner bears the initial burden of

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

Applicants further note that there must be a basis in the art for combining or modifying the references. Specifically, MPEP § 2143.01 provides that the mere fact that references "can be combined or modified does not render the resultant combination obvious *unless* the prior art also suggests the desirability of the combination." *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)(emphasis added). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention "absence some teaching suggestion or incentive supporting the combination." *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 21 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Thus, there must be some teaching, suggestion, or incentive in the prior art for combining or modifying the references. Applicants respectfully submit that there is no such teaching, suggestion or incentive within the cited references.

Nilson, the primary reference, generally discloses a loading device for a vehicle that includes a pair of members 24 pivotally attached to a frame 20. Extending between the members 24 is a cross-member 32. Nilson expressly teaches that the cross-members 32:

[A]ssist[s] in keeping the various elements 24 and 29 etc. in direct alignment as shown in Figure 6 and substantially at this point through the rigidifying [sic] effect of these members when the pivotal points are on dead center.

Thus, Nilson expressly teaches that the cross-member 32 is for alignment and stiffening of various elements of the lift. Note that there is no teaching or suggestion within Nilson of either the need or desire to include supports, whether it is a u-shaped bracket or any other type of support device. Moreover, Nilson expressly teaches that the cross-member 32 is used for alignment and/or stiffening the member 24. Neither Fretwell et al., Corley Jr., or Torii addresses

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

the foregoing shortcomings of Nilson, and, therefore, cannot overcome the deficiencies of Nilson.

Fretwell et al. disclose a wheelchair lift that includes a rod 22 located and extending parallel to the sides of lifting arms 21. Applicants respectfully note that there is no teaching or suggestion within Fretwell et al of support members. The citation in the Office Action of Fretwell et al. disclosing "the use of similar lift for a wheelchair," is noted. However, the lift of Fretwell et al. fails to even address the need or desirability of supporting members in the event of structural failure of a component of the lift.

Corley Jr. is cited for the purpose of establishing U-shaped brackets at the end of parallel arms. Applicants respectfully disagree with the Office Action. Specifically, Corley Jr. expressly teaches a "horizontal platform structure . . . includes sidewalls 35 which are welded to the exterior surfaces of the sideplates 34 and . . . flanges 36" Col. 4, lines 41-46. Thus, Corley Jr. does not teach U-shaped brackets at the end of parallel arms as alleged in the Office Action, but instead teaches sidewalls 35 welded to an exterior surface of sideplates and flanges 36 that are apparently similarly fastened to structure of the lift. Accordingly, applicants respectfully submit that there is no teaching or suggestion in Nilson, Fretwell et al., or Corley Jr. of a support member. Thus, applicants respectfully submit that the Office Action has failed to set forth a *prima facie* case of obviousness, as required in both the MPEP and by the Federal Circuit.

Torii has been cited by the Office Action for the purposes of establishing use of "U-shaped brackets 43a, 43b between the ends of parallel link(s)." Applicants respectfully disagree. Specifically, elements 43a and 43b are not brackets, but instead are *cams*. Accordingly, there is no teaching or suggestion within Torii of support brackets for a ramp assembly.

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

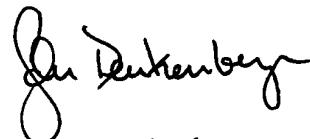
In view of the above remarks, applicants respectfully submits that the rejection of Claims 1-23 under 35 U.S.C. § 103(a) is improper because a *prima facie* case of obviousness has not been established. Accordingly, applicants respectfully request that the rejection of all claims under 35 U.S.C. § 103(a) in view of a hypothetical combination of Nilson, Fretwell et al., Corley Jr., and/or Torii be withdrawn.

CONCLUSION

In view of the foregoing amendment to the specification and remarks regarding the Office Action, applicants respectfully request reconsideration and allowance of all claims. The Examiner is invited to telephone the undersigned if there are any remaining issues regarding this matter.

Respectfully submitted,

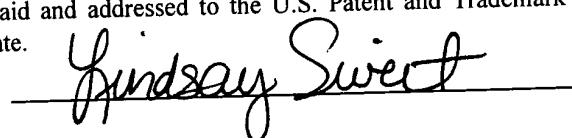
CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



John D. Denkenberger
Registration No. 44,060
Direct Dial No. 206.695.1749

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VERSION WITH MARKINGS TO SHOW CHANGES MADE AUGUST 30, 2002

the Specification:

The paragraph beginning on page 6, line 14, has been amended as follows:

The support assembly 20 includes first and second plates 34a and 34b and a pair of support pins 36a and 36b. Each plate 34a and 34b is suitably a rectangular member formed from a high strength material, such as steel. The plates 34a and 34b are fastened to opposite sides of the support arm 30a and balance arm 32a by the strap pins 36a and 36b. As seen best by referring to FIGURE 3, the first strap pin 36a extends through one end of the first plate 34a, through a correspondingly located bore 46 extending laterally through the balance arm 32a, and through the second plate [32b]34b. The second strap pin 36b extends through the first plate 34a, through a bore 48 extending laterally through the support arm 30a, and through the second plate 34b. Thus, as attached, the support arm 30a and balance arm 32a are sandwiched between the first and second plates 34a and 34b of the support assembly 20.

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100